

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) beaven01.001			
<div>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on <u>filed by EFS</u> Signature <u>/Gordon E. Nelson/</u> Typed or printed name <u>Gordon E. Nelson</u></div>	Application Number 09/312,740	Filed 5/14/1999			
	First Named Inventor Douglas F. Beaven				
	Art Unit 3623	Examiner Tarae, C.M.			
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <table style="width: 100%; border: none;"><tr><td style="width: 50%; vertical-align: top; padding-bottom: 10px;"><div><input type="checkbox"/> applicant/inventor.</div><div><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</div><div><input checked="" type="checkbox"/> attorney or agent of record. 30,093 Registration number _____</div><div><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</div></td><td style="width: 50%; vertical-align: top; padding-bottom: 10px;"><div><u>/Gordon E. Nelson/</u> Signature Gordon E. Nelson Typed or printed name 978-948-7632 Telephone number 8/20/2007 Date</div></td></tr></table> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>				<div><input type="checkbox"/> applicant/inventor.</div> <div><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</div> <div><input checked="" type="checkbox"/> attorney or agent of record. 30,093 Registration number _____</div> <div><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</div>	<div><u>/Gordon E. Nelson/</u> Signature Gordon E. Nelson Typed or printed name 978-948-7632 Telephone number 8/20/2007 Date</div>
<div><input type="checkbox"/> applicant/inventor.</div> <div><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</div> <div><input checked="" type="checkbox"/> attorney or agent of record. 30,093 Registration number _____</div> <div><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</div>	<div><u>/Gordon E. Nelson/</u> Signature Gordon E. Nelson Typed or printed name 978-948-7632 Telephone number 8/20/2007 Date</div>				
<div><input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.</div>					

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS: **SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**NOTICE OF APPEAL FROM THE EXAMINER TO
THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Docket Number (Optional)

beaven01.001

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] filed via EFS on _____

Signature /Gordon E. Nelson/

Typed or printed name Gordon E. Nelson

In re Application of
Douglas F. Beaven

Application Number
09/312,740

Filed
5/14/99

For Processing Management Information

Art Unit
3623

Examiner
Tarae, C.M.

Applicant hereby **appeals** to the Board of Patent Appeals and Interferences from the last decision of the examiner.

The fee for this Notice of Appeal is (37 CFR 41.20(b)(1)) \$ 500

☐ Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee shown above is reduced by half, and the resulting fee is: \$ 250

☐ A check in the amount of the fee is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director has already been authorized to charge fees in this application to a Deposit Account. I have enclosed a duplicate copy of this sheet.

☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. 501315. I have enclosed a duplicate copy of this sheet.

☐ A petition for an extension of time under 37 CFR 1.136(a) (PTO/SB/22) is enclosed.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

I am the

☐ applicant/inventor.

/Gordon E. Nelson/

Signature

☐ assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

Gordon E. Nelson

Typed or printed name

☒ attorney or agent of record.
Registration number 30,093

978-948-7632

Telephone number

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34. _____

8/20/2007

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

This collection of information is required by 37 CFR 41.31. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(beaven01.001)

Applicant: Douglas F. Beaven **Paper No.:**

Application No: 09/312,740 **Group Art Unit:** 3623

Filed: 5/14/99 **Examiner:** Tarae, Catherine M.

Title: *Processing management information*

Commissioner for Patents
 Alexandria, VA 22313-1450

Submission for a pre-appeal-brief conference

Status of the prosecution

This *Submission* is in response to a final Office action mailed 5/21/2007 in the above patent application. Claims 191-211 are pending in the application. In the Office action of 5/21/2007, Examiner rejected claims 191-194 and 197-211 under 35 U.S.C. 102(e) as being anticipated by Buteau, et al., U.S. 6,442,557, henceforth "Buteau" and claims 195 and 196 under the combination of Buteau and official notice. In the following discussion of these rejections, references to the Specification and Figures of USSN 09/312,740 are based on U.S. Published Patent Application 2004/0186762, which is a CIP of USSN 09/312,740 and contains the complete Detailed Description and Drawing of USSN 09/312,740.

The invention of claims 198 and 211

Background

Applicant's invention is a technique for supporting management of a collaborative activity. The technique is implemented in a computer system which includes a database that contains a representation of a model of the collaborative entity and a graphical user interface which permits non-technical users to view and manipulate the model and access information via entities belonging to the model.

Software which supports management of a collaborative activity is of course well known. Broadly speaking such software falls into two classes:

- Software which is usable by non-technical people but provides the user with only a single simple model for the collaboration and
- Software which permits the user to make any kind of model whatever for the collaboration but is not usable by non-technical people.

The problem with the first class of software is the inflexibility of the model. The problems with the second class are the complexity of the systems and the difficulties of making models from scratch.

Applicant's solution

Applicant's solution to the problems of the prior art is a modeling technique which is simple enough for non-technical collaborators to understand and use but powerful enough to model many different kinds of collaborations. The elements are a model which has two kinds of hierarchies to which model entities in the model may belong, and thus permits the model to deal with the collaboration from two points of view and a graphical user interface for manipulating the graphical user interface which requires no technical training to use.

In a preferred embodiment, the model entities are goals, projects, and domains. One of the hierarchies is a goal and projects hierarchy of things to be done and projects for doing them; the other is a domain hierarchy of functional areas of the collaboration. A goal or project of the model may belong simultaneously to a domain hierarchy and a goal hierarchy and may be accessed via either hierarchy. Domains are explained at 0057 of 2004/0186762 and goals at 0059. A screen of the GUI that displays a hierarchy of goals is shown in FIG. 3; a screen of the GUI which displays a hierarchy of domains is shown in FIG. 8; a screen of the GUI which displays goals belonging to a domain is shown in FIG. 9. The GUI may be used to control access to goals and projects, to create, modify, and/or delete goals and projects, to assign a goal or project to a location in a hierarchy, to access information via a goal or project, and to view goals or projects ordered by a value in the goal or project's information.

Independent claim 198 addresses the feature of the above system that a model entity may be assigned to two hierarchies; independent claim 211 addresses that feature as well as other operations; both claims set forth the limitation that the system's GUI may be used by persons who are not specialists in information technology.

5

The disclosure of Buteau

The Buteau reference

As set forth in the *Abstract*, the Buteau reference discloses a system that evaluates an enterprise architecture to see how architectural changes to the enterprise affect the enterprise architecture. The enterprise architecture is represented using tables in a relational database system and includes a work flow model, an information model, and a technology model. The enterprise architecture itself is based on the Department of Defense's Technical Architecture Model for Information Management (TAFIM). Buteau's FIG. 2 shows the TAFIM model. As can be seen from FIG. 2 and the discussion of FIG. 1 at col. 1, lines 23-35, the TAFIM model is concerned with an enterprise's infrastructure, not with managing whatever it is that the enterprise is using the infrastructure to do. Buteau's user interface is described at col. 22, lines 20-62. It has a simple interface, shown in FIG. 8, for inputting information to the database, but as shown in FIGs. 9 and 10, all other operations require the user to write sophisticated SQL code.

See in this regard lines col. 22, lines 56-58.

20

Important differences between Buteau and Applicant's system include the following:

25

30

- the *model* used to represent the enterprise is that provided by TAFIM; it is substantially fixed; changes necessary to adapt the model for individual enterprises are made by *architects and planners* (col. 6, line 15); ordinary users can change the information in the model but not the model itself.
- the model is not visible to the users; there is nothing in Buteau's GUI corresponding to FIGs. 3, 8, and 9.
- As would be expected from the fact that the model is not visible in the GUI, the relationship of an entity to the model is also not visible in Buteau's GUI.
- getting information out of Buteau's system requires writing SQL queries and this is beyond non-technical users.

- there are no model entities in Buteau that are "capable of belonging to a hierarchy having one of the types and a hierarchy have another of the types".
- users of Buteau's system cannot "assign[] the model entity to a location in a hierarchy", or "view[] model entities as ordered by a hierarchy to which the entities belong". Ordinary users cannot "view[] model entities as ordered by a value in the information concerning the collaborative activity to which the entities give access".

Patentability of claim 211 over Buteau

Claim 211 clearly sets forth the foregoing distinctions between the system of Buteau and Applicant's system. Buteau's system is not claim 211's "system for supporting management of a collaborative activity by persons involved therein, the persons not being specialists in information technology", the model is not visible in the graphical user interface, there are no model entities that "simultaneously belong to a hierarchy having one of the types and a hierarchy having another of the types", Buteau's graphical user interface does not permit "persons who [are not] specialists information technology" to create or delete model entities, assign model entities locations in hierarchies, view them as they are ordered by a hierarchy, or view model entities as ordered by a value in the information concerning the collaborative activity to which the entities give access.

Because none of the foregoing limitations of Applicant's claim 211 are disclosed in Buteau, Examiner's rejection of the claim under 35 U.S.C. 102 as anticipated by Buteau is without foundation. The argument made above with regard to claim 211 applies equally to claim 198. Further, because independent claims 198 and 211 are patentable over Buteau, so are all of the claims dependent from those claims.

Patentable weight of "persons not being specialists in information technology"

While the patentability of claims 198 and 211 over Buteau does not depend on whether the language "the persons not being specialists in information technology" has patentable weight, it is worth pointing out here that MPEP 2100-42, Rev. 5, Aug. 2006, I. Preamble Statements Limiting Structure requires a contrary conclusion. The cited location in the MPEP reads as follows:

Any terminology in the preamble that limits the structure of the claimed invention must be treated as a claim limitation.

In both claim 198 and claim 211, the "interface" (claim 198) and "graphical user interface" (claim 211) are components of the structure of the claimed limitation, and it is these structural components that are limited by the "users who are not specialists in information technology". That language consequently must be treated as a claim limitation.

As for the "patentable weight" of the limitation, it is repeatedly pointed out in the Specification that a large part of the value of the invention comes from the fact that it can be used by everyone who is collaborating in the business in which the invention is being used. See in this regard page 15, line 21 through page 17, line 20. Moreover, even the most cursory reflection on the history of digital data processing leaves no doubt that the user interface is crucial to the usability of a technology. In the early 70's, for example, the WYSIWYG GUI for word processing replaced text processing languages like troff and turned word processing into a task for secretaries. The graphical user interface in Applicant's system represents the same kind of progress over the user interface in Buteau. As such, it clearly has patentable weight.

A *Notice of Appeal* and the requisite fee accompanies this submission. Should additional fees be required, please charge them to deposit account number 501315.

Respectfully submitted,

/Gordon E. Nelson/
 Attorney of record,
 Gordon E. Nelson
 57 Central St., P.O. Box 782
 Rowley, MA, 01969,
 Registration number 30,093
 Voice: (978) 948-7632
 Fax: (866) 723-0359
8/20/07
 Date